

Remarks

The Official Action rejected claims 1-35. Applicant has amended claims 1-11, 13, 15, 16, 22, 29, and 30. Claims 1-35 are now pending in the present application. Applicant respectfully requests reconsideration and allowance of the pending claims in the light of the points that follow.

Claim Rejections under 35 USC § 101

The Official Action rejected claims 29-35 under 35 U.S.C. 101 for the claimed invention being directed to non-statutory subject matter. Applicant disagrees that claims 29-35 are directed to non-statutory subject matter. In particular, Applicant disagrees that the identified embodiments such as acoustical embodiments and other forms of propagated signal embodiments are not machine readable mediums. Since the rejection is based upon the allegedly intangible nature of the claimed subject, Applicant has amended claim 29 to explicitly claim the tangible aspects of claims 29-32. Applicant respectfully requests that the present rejection be withdrawn.

Claim Rejections under 35 USC § 102 (Hu)

The Official Action rejected claims 1, 2, 9, 15 and 29 under 35 U.S.C. 102(e) as being anticipated by Hu et al. (U.S. Patent No. 7,111,203). Applicant has amended claim 1, 2, 9, 15 and 29.

As is well-established, in order to successfully assert a *prima facie* case of anticipation, the Official Action must provide a single prior art document that includes

every element and limitation of the claim or claims being rejected. Therefore, if even one element or limitation is missing from the cited document, the Official Action has not succeeded in making a prima facie case.

Claims 1, 2 and 9

Applicant respectfully points out that claim 1 contain limitations not taught by the cited reference. Claim 1 requires ***a user interface to enable a user of the system to save one or more backup points that comprises one or more from a group comprising time information on the backup operation, type of the backup operation, information on content to be backed up in the backup operation, information to identify the content, a point management module to establish a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship.***

Applicant respectfully asserts that Hu merely appears to disclose implement data backup and recovery in a computer hard disk based on BIOS (Col. 2, lines 32-33). Specifically, Hu seems to disclose the BIOS loads the kernel of the inserted operating system that is an operation platform on BIOS and the backup/recovery function is implemented on this platform (Col. 5, lines 7-10). Applicant respectfully indicates that none of the paragraphs or figures as cited by the Examiner teaches or suggests a user interface or a point management module. Accordingly, Applicant respectfully points out that Hu does not appear to teach or suggest a user interface to enable a user of the system to save one or more backup points that comprises one or more from a group comprising time information on the backup operation, type of the

backup operation, information on content to be backed up in the backup operation, information to identify the content, a point management module to establish a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship, as required by claims 1, 2 and 9.

Applicant respectfully requests the rejection of claims 1, 2 and 9 be withdrawn.

Claims 15 and 29

Claim 15 requires providing ***a user interface in the basic input and output system to enable a user of the computing device to save one or more backup points that comprises one or more from a group comprising time information on the backup operation, type of the backup operation, information on content to be backed up in the backup operation, information to identify the content; establishing a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship.*** Claim 29

requires ***provide a user interface in the firmware to enable a user of the computer device to save one or more backup points that comprises one or more from a group comprising time information on the backup operation, type of the backup operation, information on content to be backed up in the backup operation, information to identify the content; and establish a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship.*** As mentioned above with regard to

claims 1, 2 and 9, Hu fails to teach or suggest a user interface or a point management module. Accordingly, Applicant respectfully points out that Hu does not

appear to disclose functions associated with the user interface or the point management module in claims 15 and 29. Applicant respectfully requests the rejection of claims 15 and 29 be withdrawn.

Claims Rejections under 35 U.S.C. § 103(a)

The Office Action rejects claims 3-8, 10-14, 16-28 and 30-35 under 35 U.S.C. §103(a) as being unpatentable over Hu and further in view of Wang (U.S. Pub. No. 2005/0038836). Applicant has amended claims 3-8, 10, 11, 13, 15, 16, 22, and 30. Applicant respectfully traverses this rejection in view of the remarks that follow.

Claims 3-8, and 10-14

It is well established that obviousness requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). Without conceding the appropriateness of the combination, Applicant respectfully submits that the combination of Hu and Wang does not meet the requirements of an obvious rejection in that neither teaches nor suggests a user interface to enable a user of the computer device to save one or more backup points that comprises one or more from a group comprising time information on the backup operation, type of the backup operation, information on content to be backed up in the backup operation, information to identify the content, a point management module to establish a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship.

Claims 3-8 and 10-14 require a user interface to enable a user of the computer device to save one or more backup points that comprises one or more from a group comprising time information on the backup operation, type of the backup operation, information on content to be backed up in the backup operation, information to identify the content, a point management module to establish a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship.

Applicant respectfully agrees to the assertion in the Official Action that Hu does not expressly teach a user interface. As discussed above with regard to claims 1 and 9, Applicant respectfully indicates that Hu fails to teach a point management module.

Further, the Official Action appears to be relying on Wang Pars. 0046-0047 and Fig. 10 for a teaching of a user interface. However, the identified section of Wang merely appears to teach a backup option screen that may allows a user to choose backup methods and set whether to backup with verification or compression. From Applicant's review, the other windows as shown in Wang do not appear to teach a user interface to enable a user of the computer device to save one or more backup points. Further, Applicant has been unable to find any teaching of a point management module that may establish a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship.

Since neither Hu nor Wang teaches a user interface to enable a user of the computer device to save one or more backup points that comprises one or more

from a group comprising time information on the backup operation, type of the backup operation, information on content to be backed up in the backup operation, information to identify the content, a point management module to establish a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship, the proposed combination fails to arrive at the invention of claims 3-8 and 10-14. Withdrawal of the present rejection is respectfully requested.

Claims 16-28 and 30-35

Claims 16-28 and 30-35 require providing a user interface to enable a user of the computing device to save one or more backup points that comprises one or more from a group comprising time information on the backup operation, type of the backup operation, information on content to be backed up in the backup operation, information to identify the content; establishing a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship.

As discussed above with regard to claims 15 and 29, Hu fails to teach providing a user interface to enable a user of the computing device to save one or more backup points or establishing a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship.

As discussed above with regard to claims 3-8 and 10-14, Wang fails to teach or suggest a user interface to enable a user of the computing device to save one or more backup points. Further, Applicant has been unable to find any teaching of

establishing a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship.

Since neither Hu nor Wang teaches providing a user interface to enable a user of the computer device to save one or more backup points that comprises one or more from a group comprising time information on the backup operation, type of the backup operation, information on content to be backed up in the backup operation, information to identify the content, and establishing a relationship among the backup points and locate a backup point associated with the recovery request based on the relationship, the proposed combination fails to arrive at the invention of claims 16-28 and 30-35. Withdrawal of the present rejection is respectfully requested.

If the Examiner elects to maintain the present rejection, Applicant respectfully requests that the Examiner identify where Wang teaches ***a user interface to enable a user to save one or more backup points*** or ***a point management module***.

Furthermore, if the Examiner continues to rely on Wang, Applicant respectfully requests that the Examiner provide additional explanation regarding how Wang pertains to the limitations of claims 3-8, 10-14, 16-28 and 30-35.

Conclusion

The foregoing is submitted as a full and complete response to the Official Action. Applicant submits that the pending claims are in condition for allowance. Reconsideration is requested, and allowance of the pending claims is earnestly solicited.

Should it be determined that an additional fee is due under 37 CFR §§1.16 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #02-2666. If the Examiner believes that there are any informalities which can be corrected by an Examiner's amendment, a telephone call to the undersigned at (503) 439-8778 is respectfully solicited.

Respectfully submitted,

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